ficial statute for the protection of natural claim, founded on natural relations." So, too, in the principal case, the court, although not citing in their opinion the decisions above mentioned, or *Cox* v. *Cox,* 20 Ohio St. 439, the latter a decision allowing alimony based upon property acquired subsequent to the divorce decree, gave a broad interpretation to the words of the statute upon the grounds of interpreting the intention of the General Assembly. The instant case in the lower court, Hamilton Insolvency Court, *Lape* v. *Lape,* 62 Ohio Law Bulletin 398, was developed on a different and contrary theory to the one given by the Supreme Court. *Davis* v. *Davis,* 21 Ohio Circuits 136; *DeWitt* v. *DeWitt,* 67 Ohio St. 340. There are early cases which lay down the proposition flatly that "alimony being an allowance out of the husband's estate for the support of the wife, when there is no estate, there can be no alimony." *Feigley* v. *Feigley,* 7 Md. Reports 537, 563. This is based on the theory that the duty to support stops with the decree of divorce. However the cases following the weight of authority, previously cited, refuse to follow this doctrine and go on the theory that the duty to support still continues. But in *Wilson* v. *Wilson,* 67 Minn. 444, where the statute provided for permanent alimony "from the estate of her husband", they interpreted the statute literally and held that future personal earnings could not be the basis for permanent alimony under that statute, and that the remedy lay with the legislature, the court admitting the equity of allowing permanent alimony based on future income, but also admitting their inability to correct it. *State of Minnesota ex rel. Wise* v. *Jamison,* 69 Minn. 427 sustained the above cited Minnesota case. To the same effect see also *Jackson* v. *Burns,* 116 La. 695.

EMINENT DOMAIN—PARTIES—INCHOATE DOWER—RIGHT TO DAMAGES.—Action by plaintiff against her husband for a share, as the fair and reasonable value of her inchoate right of dower, in damages awarded the husband in appropriation proceedings against land owned by him in fee. Plaintiff claims her right of action under statutes relating to the appropriation of land. *Held* —The wife's inchoate right of dower was not such an "interest, legal or equitable, in the property," as would require her to be a party to condemnation proceedings under the statute. Nor can she claim a present pecuniary interest in the damages awarded, for this fund is no different from any other personal estate of the husband. *Long* v. *Long* (Ohio, 1919), 124 N. E. 161.

The reasoning of the court appears sound. If the wife could share in the fund today, and the husband die tomorrow, she would again share in the remaining fund, as in all his other personal and real property. *Cf. accord, Weaver* v. *Gregg,* 6 Oh. St. 547; *Moore* v. *Mayor, etc. of City of New York,* 8 N. Y. 110; *Gwynne* v. *City of Cincinnati,* 3 Ohio 24; *Flynn* v. *Flynn,* 171 Mass. 312; *contra, Wheeler* v. *Kirtland,* 27 N. J. Eq. 534; *In re New York and Brooklyn Bridge,* 75 Hun 558. The *Weaver* case held that a partition sale divests the wife of a co-tenant in fee of her inchoate right of dower therein. The principal case is carefully distinguished from those in which creditors have subjected the husband's estate to the satisfaction of judgments rendered against him, in which the inchoate right of dower was ascertained and exempted from execution. In such cases the husband's interest has been wholly

extinguished and he receives no compensation such as arises from cases of eminent domain or a sale in partition. The inchoate right of dower is treated as some sort of present interest, entitled to protection in equity, in *Brown* v. *Brown,* 82 N. J. Eq. 40 (against a possible bona fide purchaser without notice from trustee), and in *Brown* v. *Brown,* 94 S. Car. 492 (against waste).

FISH—MUSSELS—PROPERTY OF STATE.—In a suit by the owner of the bed of a non-navigable stream for the conversion of mussel shells taken from the bed of said stream by defendants, the plaintiff claimed the mussels were part of the realty. *Held,*—A mussel, having powers of locomotion, is a fish *ferae naturae* within the meaning of the Rev. Stat. Mo. 1909, Sec. 6508, and the owner of the bed of the stream cannot acquire title to them, title being always in the state. *Gratz* v. *McKee et al,* (C. C. A., 8th Circ.) 258 Fed. 335.

Thus mussels in fresh waters seem to be included by an extension of the law relative to salt water shell-fish, which rules that shell-fish, such as oysters and clams, in their natural state, are classified as *ferae naturae,* and their ownership is in the state in its sovereign capacity, *State* v. *Harub,* 95 Ala. 176, —though where planted in a place where they would not naturally grow, and their location well marked, they partake of the nature of *ferae domitae,* and are the subjects of private ownership, *State* v. *Taylor,* 27 N. J. L. 117, 72 Am. Dec. 347; *People* v. *Morrison,* 194 N. Y. 175. In England, mussels in a mussel bed granted by an order of the Board of Agriculture and Fisheries, sufficiently known and marked out as such, are the absolute property of the grantees of the order. Sea Fisheries Act, 1868, 31-32 Vict., c 45, ss 51, 52, 53. Likewise in this country some states may convey or lease beds for cultivating shell-fish to individuals, and the grantee or lessee gets an exclusive right to cultivate shell-fish on the bed, protected by equity, *Sequim Bay Canning Co.* v. *Bugge,* 49 Wash. 127. But while power of locomotion, which is mentioned in the principal case, may bring mussels within the class of swimming fish, which are *ferae naturae,* still it would seem more logical that viewed as an article of commerce, due to the similarity of its organism, habits, and mode of capture to those of other shell-fish subjects of commerce, the law relative to property rights in mussels should follow the trend of decisions declaring property rights in shell-fish, such as oysters and clams. Thus upon principle the law applicable to mussels in planted beds should be the same as that which is applied to oysters and clams in planted beds.

JOINT ADVENTURERS — BREACH OF CONFIDENCE — RESCISSION. — The three plaintiffs and the defendant MacDonald purchased an undivided four-fifths in defendant Oxnam's mine. Later, plaintiffs discovered that defendant MacDonald had agreed secretly with Oxnam that if the project was not profitable at the end of two years, MacDonald should have the right to reconvey his undivided one-fifth to Oxnam. *Held,* that MacDonald's conduct amounted to a constructive fraud to which Oxnam was a party and that the plaintiffs had a right to rescind.—*Menefee et al.* v. *Oxnam et al.* (Cal., 1919), 183 Pac. 379.

The rule is universal that no one having duties of a fiduciary character shall be allowed to enter into engagements in which he has, or can have, a